



5. This case arises out of a personal injury claim against Defendant in Bexar County. Plaintiff alleges that on or about December 27, 2022, she was operating her vehicle on Castle Cross Drive in San Antonio, Texas, proceeding through the intersection on Gibbs Sprawl Rd. As she was crossing the intersection, Defendant ran a red light, causing a collision with Plaintiff's vehicle. Plaintiff alleges that as a result of the collision, she sustained injuries and incurred medical expenses. *See Exhibit 1*, Plaintiff's Original Petition, at p. 2. Defendant denies liability.

**II. COMPLETE DIVERSITY EXISTS BETWEEN PLAINTIFF AND DEFENDANT.**

6. Pursuant to 28 U.S.C. § 1332(a), this case is removable to this Court because this Court has diversity jurisdiction.

7. Plaintiff has been a citizen of the State of Texas at all relevant times. Plaintiff has maintained her domicile in Texas at all relevant times. As stated in Plaintiff's Original Petition filed in the State Court Proceeding, Plaintiff is a resident of Texas. *See Exhibit 1*, at ¶ 3. Therefore, Plaintiff is a citizen of Texas for purposes of diversity jurisdiction.

8. Defendant Brooke has been a citizen of State of Arizona at all relevant times. Defendant has maintained his domicile in Maricopa County, Arizona, at all relevant times. Defendant is not a "citizen" of the State of Texas. Defendant is a citizen of Arizona for purposes of diversity jurisdiction.

9. Complete diversity exists between Plaintiff and Defendant.

**III. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000.**

10. It is facially apparent that an amount in excess of \$75,000 (exclusive of interest and costs) is in dispute. Plaintiff alleges she suffered physical pain and suffering, mental anguish, physical impairment, and disfigurement. *See Exhibit 1*, at ¶ 7. Plaintiff seeks damages for past and future reasonable and necessary medical care and expenses, past and future physical pain and

suffering, past and future mental anguish, past and future physical impairment, past and future disfigurement, past and future lost earning capacity, past and future lost wages, and numerous other out-of-pocket expenses. *Id.* Plaintiff seeks monetary relief of over \$200,000 but not more than \$1,000,000. Thus, the \$75,000 amount in controversy component of diversity jurisdiction has been satisfied. 28 U.S.C. § 1332(a); 28 U.S.C. § 1446(c)(2).

**IV. VENUE**

11. Venue is proper in the San Antonio Division of the Western District of Texas under 28 U.S.C. § 1441(a) because this district and division embrace Bexar County, Texas, the place where the State Court Proceeding was pending before removal.

**V. MATTERS FILED**

12. In accordance with 28 U.S.C. § 1441(a), copies of all process, pleadings, and orders served in the State Proceeding are attached to this Notice of Removal. *See* Index of Matters filed.

13. Pursuant to 28 U.S.C. § 1446(d), the Defendant will promptly give written notice of the filing of this Notice of Removal to all parties and to the clerk of the 408<sup>th</sup> Judicial District Court of Bexar County, Texas.

**VI. PRAYER**

For the foregoing reasons, Defendant, CLIFFORD BROOKE, respectfully requests that the State Court Proceeding be removed and placed on the Court's docket for further proceedings. Defendant requests any additional relief to which he may be justly entitled.

Respectfully submitted,

**LANZA LAW FIRM, P.C.**

/s/ Stephen Goldsmith 

Nicholas J. Lanza

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San Antonio, TX 78258

eservice@lanzalawfirm.com

(210) 564-9100 Telephone

(210) 899-3590 Facsimile

**ATTORNEYS FOR DEFENDANT,  
CLIFFORD BROOKE**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this document was sent to all known counsel of record on the 16<sup>th</sup> day of December, 2024, as indicated:

**Via ECF and Email:** service@missioninjurylaw.com

Noah D. Lombardo

TBA No. 24099884

Mission Injury Law

3510 N Saint Mary's St., Suite 100

San Antonio, TX 78212

/s/ Stephen Goldsmith 

**STEPHEN GOLDSMITH**

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**BETSY HARRELL,  
INDIVIDUALLY AND A/N/F OF  
NATALIE HARRELL, AND  
MADELINE HARRELL,  
*Plaintiff,***

V.

**CLIFFORD BROOKE,**  
*Defendant.*

CIVIL ACTION NO. \_\_\_\_\_

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SA 24CA 1445 **OG**

## INDEX OF MATTERS FILED

1. Civil Cover Sheet
2. Supplemental Cover Sheet
3. Docket Sheet
4. Plaintiff's Original Petition
5. Issued Citation
6. Proof of delivery via Certified Mail
7. Defendant's Original Answer and Jury Demand



## 408th District Court

## Case Summary

Case No. 2024CI24161

Betsy Harrell VS Clifford Brooke

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§  
§Location: 408th District Court  
Judicial Officer: 408th, District Court  
Filed on: 10/23/2024

## Case Information

Case Type: MOTOR VEHICLE  
ACCIDENT

Case Status: 10/23/2024 Pending

## Assignment Information

## Current Case Assignment

Case Number 2024CI24161  
Court 408th District Court  
Date Assigned 10/23/2024  
Judicial Officer 408th, District Court

## Party Information

## Lead Attorneys

Plaintiff Harrell, Betsy LOMBARDO, NOAH D  
RetainedDefendant Brooke, Clifford LANZA, NICHOLAS J  
Retained  
LANZA, NICHOLAS J  
Retained

## Events and Orders of the Court

10/23/2024 New Cases Filed (OCA)

10/23/2024 PETITION

10/23/2024 REQUEST FOR SERVICE AND PROCESS

10/24/2024 Citation  
Brooke, Clifford  
Unserved

11/05/2024 NOTICE  
OF CHANGE OF E-SERVICE ADDRESS FOR NOAH LOMBARDO

11/27/2024 JURY FEE PAID

11/27/2024 ORIGINAL ANSWER OF  
CLIFFORD BROOKE

12/10/2024 NOTICE OF ENTRY OF APPEARANCE OF ATTORNEY OF  
CLIFFORD BROOKE

FILED  
10/23/2024 4:20 PM  
Gloria A. Martinez  
Bexar County District Clerk  
Accepted By: Maria Jackson  
Bexar County - 408th District Court

cit pps sac 1

**2024CI24161**

CAUSE NO. \_\_\_\_\_

BETSY HARRELL,  
INDIVIDUALLY AND A/N/F OF  
NATALIE HARRELL, AND  
MADELINE HARRELL

Plaintiffs,

v.

CLIFFORD BROOKE

Defendant.

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IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

\_\_\_\_ JUDICIAL DISTRICT

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**PLAINTIFF'S ORIGINAL PETITION**

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**TO THE HONORABLE JUDGE OF THIS COURT:**

NOW COMES, Betsy Harrell, individually and as next friend of Natalie Harrell, and Madeline Harrell, Plaintiffs, complaining of Clifford Brooke, Defendant, and for causes of action, respectfully shows:

**I.**

**DISCOVERY CONTROL PLAN**

1. Discovery in the matter may be conducted under Level 3 of the Texas Rules of Civil Procedure.

**II.**

**JURISDICTION AND VENUE**

2. The claims asserted arise under the common law of Texas. This Court has jurisdiction and venue is proper because all or a substantial part of the events or omissions giving rise to this claim occurred in Bexar County, Texas. Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000. This is not an expedited action because the amount in controversy exceeds \$250,000.

**III.**  
**PARTIES**

3. Plaintiffs are residents of Texas.

4. Defendant Clifford Brooke is an individual residing in Maricopa County, Arizona. Pursuant to Section 17.042 of the TEXAS CIVIL PRACTICE & REMEDIES CODE, Plaintiff hereby invokes the Texas Long Arm Statute to serve Defendant, who may be served with process personally at 9501 E Broadway Rd, Lot 240, Mesa, Arizona 85208, or wherever Defendant may be found.

**IV.**  
**FACTS & CAUSES OF ACTION**

5. This lawsuit is necessary as a result of personal injuries suffered by Plaintiff in a motor-vehicle collision on or about December 27, 2022 in Bexar County, Texas. At that time, Betsy Harrell was operating her vehicle on Castle Cross Drive in San Antonio, Texas, heading south, proceeding through the intersection on Gibbs Sprawl Rd. As she was crossing the intersection, Defendant Clifford Brooke was traveling on Gibbs Sprawl Road, and ran a red light, causing a collision with Plaintiff's vehicle. The force of the collision caused Plaintiff to suffer severe neck, back, and other bodily injury. Plaintiff continues to receive medical treatment for these injuries.

6. Plaintiff sustained injuries as a direct and proximate result of Defendant's negligence and negligence *per se* when Defendant:

- Failed to control their vehicle's speed;
- Failed to keep a proper lookout;
- Failed to operate their vehicle safely;
- Failed to timely apply the brakes to their vehicle in order to avoid the collision in question;
- Failed to take evasive action in order to avoid the collision;



- Failed to exercise appropriate caution given traffic conditions;
- Failed to exercise appropriate caution given road conditions;
- Violated applicable, local, state, and federal laws and/or regulations; and
- Other acts so deemed negligent.

7. As a direct and proximate result of the occurrence made the basis of this lawsuit,

Plaintiff has incurred the following damages:

- Reasonable medical care and expenses in the past. These expenses were incurred for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges;
- Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- Physical pain and suffering in the past and future;
- Mental anguish in the past and future;
- Physical impairment in the past and future;
- Disfigurement in the past and future;
- Lost earning capacity in the past and future;
- Lost wages in the past and future; and
- Numerous other out-of-pocket expenses.

**V.**  
**JURY DEMAND**

8. Plaintiffs hereby demand a trial by jury.

**VI.**  
**PRAYER**

Plaintiffs pray that this citation issue and be served upon Defendant in a form and manner prescribed by law, requiring that Defendant appear and answer, and that upon final hearing, Plaintiffs

have judgment against Defendant in a total sum in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post-judgment interests, all costs of Court, actual and consequential damages allowed by law, exemplary damages, and all such other and further relief, to which Plaintiffs may be justly entitled.

Respectfully submitted,

**MISSION INJURY LAW**

/s/ Noah Lombardo

Willard W. Clark III

State Bar No: 24087307

Amanda L. Hazleton

State Bar No: 24076077

Noah D. Lombardo

State Bar No: 24099884

3510 N Saint Mary's St, Suite 100

San Antonio, Texas 78212

Telephone: (210) 787-5681

**For electronic service:**

[service@missioninjurylaw.com](mailto:service@missioninjurylaw.com)

**ATTORNEYS FOR PLAINTIFFS**

PRIVATE PROCESS

Case Number: 2024CI24161

Betsy Harrell VS Clifford Brooke  
(Note: Attached Document May Contain Additional  
Litigants)

IN THE 408TH DISTRICT COURT  
BEXAR COUNTY, TEXAS

**CITATION****"THE STATE OF TEXAS"**Directed To: **Clifford Brooke**

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this CITATION and PETITION a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org" Said Original Petition was filed on this the 23rd day of October, 2024.  
ISSUED UNDER MY HAND AND SEAL OF SAID COURT on this the 24th day of October, 2024.

**NOAH D LOMBARDO**  
**ATTORNEY FOR PLAINTIFF**  
**3510 N ST MARYS ST STE 100**  
**SAN ANTONIO TX 78212**



**Gloria A. Martinez**  
**Bexar County District Clerk**  
**101 W. Nueva, Suite 217**

**San Antonio, Texas 78205**  
**By: /s/ Rosa Aguilera-Rodriguez**  
**Rosa Aguilera-Rodriguez, Deputy**

**BETSY HARRELL VS CLIFFORD BROOKE**

Case Number: 2024CI24161  
Court: 408th District Court

**Officer's Return**

I received this CITATION on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_M. and ( ) executed It by delivering a copy of the CITATION with attached ORIGINAL PETITION the date of delivery endorsed on it to the defendant \_\_\_\_\_ in person on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_M.

at \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

or ( ) not executed because \_\_\_\_\_.

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

\_\_\_\_\_ County, Texas

BY: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

**NOTARY PUBLIC, STATE OF TEXAS**

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_ County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_.

\_\_\_\_\_  
**Declarant**

DAVILA CIVIL PROCESS

P.O. Box 1733  
Helotes, Texas 78023



7020 2450 0000 2452 1459

**Retail**



85208

RDC 99

U.S. POSTAGE PAID  
FCM LG ENV  
SAN ANTONIO, TX 78204  
OCT 30, 2024

**\$10.72**

S2324A501331-18

2.  
**Mr. Clifford Brooke**  
**9401 E. Broadway Rd., Lot 240**  
**Mesa, Arizona 85208**

**Return receipt requested**



**CERTIFIED MAIL**  
 OF THE RETURN ADDRESS, FOLD AT DOTTED LINE  
 PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Clifford Brooke  
 9501 E. Broadway Rd.  
 Lot 240  
 Mesa, AZ 85208



9590 9402 8616 3244 8959 05

2. Article Number (Transfer from service label)

7020 2450 0000 2452 1459

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature☐ Adult Signature Restricted Delivery☐ Certified Mail®☒ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Insured Mail☐ Restricted Delivery☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

CAUSE NO. 2024CI24161

BETSY HARRELL,  
INDIVIDUALLY AND A/N/F  
OF NATALIE HARRELL, AND  
MADELINE HARRELL  
*Plaintiff*

V.

CLIFFORD BROOKE  
*Defendant.*

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IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

408th JUDICIAL DISTRICT

**DEFENDANT, CLIFFORD BROOKE'S, ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

**CLIFFORD BROOKE**, in the above styled and numbered cause, file this Original Answer to Plaintiff's Original Petition, and would respectfully show the Court the following:

**I.**

**GENERAL DENIAL**

Subject to such stipulations and admissions as may hereafter be made, Defendant asserts a general denial as authorized by Rule 92 of the Texas Rules of Civil Procedure and respectfully requests that Plaintiff be required to prove the charges and allegations made against Defendant by a preponderance of the evidence as required by the Constitution and the laws of the State of Texas.

**II.**

**COMPARATIVE FAULT**



The incident complained of in Plaintiff's Original Petition was caused by the negligence and carelessness on the part of Plaintiff, and this was the sole cause or at least a proximate cause of the incident made the basis of this lawsuit.

III.

**LIMITATIONS ON LIABILITY FOR MEDICAL EXPENSES**

For further answer, Defendants' liability, if any, for Plaintiff's medical expenses is limited to the amount actually paid or incurred by or on behalf of Plaintiff in accordance with Section 41.0105 of the Texas Civil Practice and Remedies Code.

IV.

The statutory defense set forth in Section 41.0105 of the Texas Civil Practice and Remedies Code is asserted to limit recovery of medical or healthcare expenses to the amount actually paid or incurred.

Further, Plaintiff's claims for medical expenses are barred by the provision of Section 146, eq seq of the Texas Civil Practice and Remedies Code, to the extent that Plaintiff is covered by medical insurance and medical providers have refused to submit the medical bills to the medical insurance provider, CPRC 146.003.

V.

**FAILURE TO MITIGATE DAMAGES**

Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to mitigate damages.

**VI.**

**LIMITATION ON RECOVERY OF LOSS OF EARNINGS**

Further, Defendant states that pursuant to §18.091 of the Texas Civil Practice and Remedies Code, if Plaintiff is seeking recovery for loss of earnings, loss of earning capacity, or loss of contributions of a pecuniary value, any evidence to prove the alleged loss must be presented in the form of a net loss after reduction for income tax payments or unpaid tax liability pursuant to any federal income tax law.

**VII.**

Should the court decide that punitive damages should be awarded in this case, Plaintiff should be required to show that they are entitled to such damages by "clear and convincing evidence" rather than by a "preponderance of the evidence." Punitive damages are intended to punish, and it is not appropriate for Plaintiff to be allowed to recover such damages by the lower standard of the burden of proof.

**VIII.**

Should the court decide that punitive damages should be awarded, the damages must be based on a finding of intention, malicious, and conscious criminal conduct by Defendant.

**IX.**

**RULE 193.7 NOTICE OF INTENT TO USE DISCOVERY DOCUMENTS**

Pursuant to TEX. R. CIV. P. 193.7, Plaintiff is hereby notified that Defendant shall use any and all documents Plaintiff and Defendant produce in response to any discovery request in all pretrial proceedings and at the time of trial.

**X.**

**NOTICE OF CONSENT TO ELECTRONIC SERVICE**

Defendant consents to electronic service of pleadings, motions, orders, notices, and discovery in this cause only when service is completed through eFileTexas.gov, the state authorized electronic filing manager and by serving all individuals who have elected to receive notice on behalf of Defendant.

**XI.**

**JURY DEMAND**

Pursuant to Rule 216 of the Texas Rules of Civil Procedure and pursuant to Tex. Gov't Code Ann. §51.604, Defendant in the above-entitled and numbered cause, and hereby demands and makes application for a jury trial to be held on this cause.

**PRAYER**

FOR THESE REASONS, Defendant **CLIFFORD BROOKE**, pray that Plaintiff takes nothing by way of this suit; that Judgment be entered for Defendant; that Defendant recover costs of Court; and that they have such other and further relief, at law and in equity, to which they may be justly entitled.

Respectfully submitted,

**LANZA LAW FIRM, P.C.**

  
**NICK LANZA**

TBA No. 11941225

**STEPHEN GOLDSMITH**

TBA No. 08097740

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**eservice@lanzalawfirm.com**

(210) 564-9100 Telephone

(210) 899-3590 Facsimile

**ATTORNEYS FOR DEFENDANT,  
CLIFFORD BROOKE**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this document was sent to all known counsel of record on the 27th day of November 2024, as indicated:

Noah D. Lombardo  
Mission Injury Law  
3510 N Saint Mary's St, Suite 100  
San Antonio, TX 78212

***Via Email:*** [service@missioninjurylaw.com](mailto:service@missioninjurylaw.com)

  
**NICK LANZA**

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Lee Compeau on behalf of Nicholas J. Lanza

Bar No. 11941225

lcompeau@lanzalawfirm.com

Envelope ID: 94780325

Filing Code Description: ORIGINAL ANSWER OF

Filing Description: CLIFFORD BROOKE

Status as of 12/4/2024 4:30 PM CST

Associated Case Party: Betsy Harrell

| Name            | BarNumber | Email                                | TimestampSubmitted    | Status |
|-----------------|-----------|--------------------------------------|-----------------------|--------|
| Noah D.Lombardo |           | servicelombardo@missioninjurylaw.com | 11/27/2024 1:55:58 PM | SENT   |

Associated Case Party: Clifford Brooke

| Name              | BarNumber | Email                       | TimestampSubmitted    | Status |
|-------------------|-----------|-----------------------------|-----------------------|--------|
| Judith Abastta    |           | jabastta@lanzalawfirm.com   | 11/27/2024 1:55:58 PM | SENT   |
| Nicholas J. Lanza |           | eservice@lanzalawfirm.com   | 11/27/2024 1:55:58 PM | SENT   |
| Stephen Goldsmith |           | sgoldsmith@lanzalawfirm.com | 11/27/2024 1:55:58 PM | SENT   |